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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

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|----------------------------------|----------------------------------|
| UNITED STATES OF AMERICA, | CR 15-21-BU-DLC |
| Plaintiff, | OFFER OF PROOF IN SUPPORT |
| vs. | OF GUILTY PLEA |
| ZACHARY THOMAS ALLEN, | |
| Defendant. | |

Defendant Zachary Thomas Allen has filed a plea agreement that contemplates his plea of guilty to Count I of the Indictment, which charges theft of government property in violation of 18 U.S.C. § 641. Allen's plea of guilty will be unconditional.

The United States presented all formal plea offers to Allen in writing. The plea agreement entered into by the parties and filed with the Court represents, in

the government's view, the most favorable offer extended to Allen. *See Missouri v. Frye*, 132 S.Ct. 1399 (2012).

Elements. In order to prove the case against Allen at trial, the United States would have to prove the following elements beyond a reasonable doubt.

First, he knowingly stole property of value with the intention of depriving the owner of the use or benefit of the property;

Second, the property belonged to the United States; and

Third, the value of the property was more than \$1,000.

Proof. If called upon to prove this case at trial, and to provide a factual basis for Allen's plea, the United States would present the following evidence.

Allen was a student at the Anaconda Job Corps Civilian Conservation Center ("AJCC") from December 2014 through February 13, 2015. He worked at the mechanics and maintenance shops. On February 13, 2015, at approximately 6:30 a.m., AJCC staff attempted to wake Allen for his scheduled duties. An altercation took place and Allen punched a fellow student. He told the staff he was leaving and declined their offer of a bus ticket home. He was observed walking off campus in possession of his bags at approximately 9:00 a.m.

On February 14, 2015, at approximately 11:00 a.m., AJCC staff observed a broken window at the maintenance shop and reported a potential break-in to the Anaconda-Deer Lodge Police Department. During a subsequent search the staff

realized a 2011 white Chevy Impala was missing. The Kelley Blue Book value of a 2011 Impala is approximately \$9,700.

On February 17, 2015, a Forest Service special agent contacted multiple law enforcement agencies in Montana, Wyoming and Colorado in an effort to locate the stolen car and Allen. On February 20, 2015, Allen called the Anaconda police and said he was at the Butte Rescue Mission. Forest Service Special Agent Jackie Fisher interviewed Allen on that date in her car in front of the mission. Allen said he did not take anything from the AJCC, including the Chevy Impala.

On February 27, 2015, the Anaconda police told the Forest Service the 2011 Chevy Impala was recovered at a hotel – the Showboat Inn – in Casper, Wyoming. The car had white duct tape over the USDA Forest Service markings and the government license plates had been replaced with Wyoming plates. The Showboat Inn is located a couple blocks from the Casper bus station and the Forest Service later learned Allen bought a bus ticket and traveled from Casper to Butte on February 19, 2015, five days after the Impala was stolen and one day before Agent Fisher interviewed him outside the rescue mission.

The manager of the Showboat Inn told Agent Fisher the car had been parked at the hotel several days prior to hotel staff notifying the police. A check of hotel records indicates Allen registered as a guest on February 17, 2015, and checked out on February 19, 2015. He provided photo identification at the time of registration

and listed his vehicle as an Impala.

The government submits that the aforementioned evidence would prove beyond a reasonable doubt all the elements of the crime charged in Count I of the Indictment.

Respectfully submitted this 3rd day of July, 2015.

MICHAEL W. COTTER
United States Attorney

/s/ Timothy J. Racicot
Assistant U.S. Attorney
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on July 3, 2015, a copy of the foregoing document was served on the following persons by the following means:

- (1,2) CM/ECF
- ☐ Hand Delivery
- ☐ U.S. Mail
- ☐ Overnight Delivery Service
- ☐ Fax
- ☐ E-Mail

1. Clerk, U.S. District Court
2. Andrew J. Nelson
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Federal Defenders of Montana
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